

LEONARD L. BOSWELL  
3rd DISTRICT, IOWA

OFFICES:  
1427 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3808

300 EAST LOCUST STREET  
SUITE 320  
DES MOINES, IA 50309  
(515) 282-1909  
TOLL FREE IOWA NUMBER  
1-888-432-1984

<http://www.house.gov/boswell>

Mr. Bryant L. VanBrakle, Secretary  
Federal Maritime Commission  
800 North Capitol Street, NW  
Washington, DC 20573

ORIGINAL

Congress of the United States

House of Representatives

Washington, DC 20515-1503

September 18, 2003

U.S. SECRETARY  
FEDERAL MARITIME COMMISSION

CC: 0201030  
COMMITTEES: 022  
AGRICULTURE 10  
SUBCOMMITTEE ON GENERAL FARM  
COMMODITIES AND RISK MANAGEMENT 2 - d  
SUBCOMMITTEE ON LIVESTOCK  
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ANALYSIS AND COUNTERINTELLIGENCE 04  
SUBCOMMITTEE ON TERRORISM AND  
HOMELAND SECURITY 05

Dear Commissioners:

I have been advised that UPS has filed for an exemption ~~from~~ the prohibition on Non-Vessel Operating Common ~~Carriers~~ (NVOCCs) ~~from~~ entering into confidential contracts with their customers. Because of the operational characteristics of UPS and recent developments within the ocean shipping marketplace, the outdated regulatory scheme governing NVOCCs should be revised. I write in strong support of the UPS petition currently pending before the FMC.

While considering the Ocean Shipping ~~Reform~~ Act (OSRA) revisions of 1998, Congress carefully considered all aspects of the ocean shipping ~~industry~~ including the role of NVOCCs. Because of the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. ~~In the late 1990s~~, most NVOCCs were small enterprises that neither owned ocean ~~vessels~~ nor the cargo being shipped. ~~In~~ order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

As you know, the state of the U.S. ocean shipping industry has changed dramatically since the passage of ~~OSRA~~. There has been significant consolidation among ~~ocean~~ carriers resulting in the loss of major U.S. flagged carriers. In trying to offer ~~customers~~ a full range of services, ~~these~~ very same carriers have created vertically ~~integrated~~ logistics companies that now compete with NVOCCs.

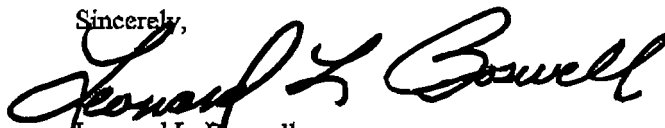
UPS operates one of the most sophisticated, integrated, intermodal ~~transportation~~ network in the ~~world~~, which includes air, rail and surface and NVOCC transportation, and is deemed a "carrier" in the surface and air ~~freight~~ industries. Also, UPS makes ~~significant~~ annual capital investments to its asset-based transportation ~~infrastructure~~. These facts alone set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

The UPS petition, citing the recent evolution of the ocean shipping marketplace, is one of the key reasons Congress granted such broad exemption authority to the FMC. While anticipating major changes in the ~~ocean~~ shipping industry with the passage of OSRA, Congress failed to ~~fully~~ contemplate how fast or how smoothly the market could adapt to these changes. By favorably granting UPS's petition, the ~~FMC~~ will acknowledge these changes, level ~~the~~ playing ~~field~~ between NVOCCs and vessel operators, and ultimately benefit ocean shipping consumers around the world.

I remain ~~hopeful~~ the FMC will give the UPS petition its closest consideration and render an equitable decision based upon the merits of the UPS case.

Thank you for your attention to my request, and I look forward to ~~learning~~ of your decision.

Sincerely,



Leonard L. Boswell  
Member of Congress

LLB:nm

**Congressman Leonard Boswell**  
**3rd District, Iowa**

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1427 Longworth House Office Building  
Washington, D.C. 20515  
Tel (202) 225-3806 Fax (202) 225-5608

300 East Locust Street, Suite 320  
Des Moines, Iowa 50309  
Tel (515) 282-1909 Fax (515) 282-1785

Date: 19 SeptemberTo: Bryant VanBrakle w/ FMCFax #: 202-523-0014From: Congressman Leonard BoswellNo. of pages (including cover sheet): 2Comments: letter in support of petition 73-03